Supreme Court, U.S.
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No. 03 390 SEP 9 2003

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In The

Supreme Court of the United States

IOWA CONFERENCE OF THE UNITED METHODIST CHURCH, THE UNITED METHODIST CHURCH OF SHELL ROCK, IOWA, JERROLD W. SWINTON, RICK KROMMINGA, KAREN WAHL, KAY J. LAHR and KAREN L. PETERSON,

Petitioners,

v.

JANE KLIEBENSTEIN and GLEN KLIEBENSTEIN,

Respondents.

On Petition For A Writ Of Certiorari To The Supreme Court Of Iowa

PETITION FOR A WRIT OF CERTIORARI

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70 pp

QUESTION PRESENTED

The Iowa Supreme Court held that a church, within the context of a church disciplinary action, referring to a member of the church as acting within the "spirit of Satan," forms an actionable defamation claim that does not require judicial abstention under the church autonomy doctrine. Does the First Amendment prohibit a civil court from exercising jurisdiction over a defamation claim against a church by a church member based solely on the church's expression of religious terminology in the context of a church disciplinary action?

PARTIES

The parties to the proceeding below were:

Petitioners: Iowa Conference of the United Methodist Church; United Methodist Church of Shell Rock, Iowa; Jerrold W. Swinton, District Superintendent for the United Methodist Church; Rick Kromminga, Karen Wahl, Kay J. Lahr, and Karen L. Peterson, members of the Staff Parish Committee of the United Methodist Church of Shell Rock. Petitioners were aligned as defendants/appellees below.

Respondents: Jane Kliebenstein and Glen Kliebenstein, former members of the United Methodist Church of Shell Rock. Respondents were aligned as plaintiffs/appellants below.

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PETITION FOR A WRIT OF CERTIORARI

Iowa Conference of the United Methodist Church, United Methodist Church of Shell Rock, Jerrold W. Swinton and members of the Parish Staff Committee of the United Methodist Church of Shell Rock respectfully petition for a writ of certiorari to review the judgment of the Iowa Supreme Court in this case.

OPINIONS BELOW

The opinion of the Iowa Supreme Court is reported at 663 N.W.2d 404. (App. 1). The opinion of the Iowa District Court of Butler County is unpublished. (App. 10).

JURISDICTION

The judgment of the Iowa Supreme Court was entered June 11, 2003. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The Free Exercise Clause of the First Amendment to the Constitution of the United States provides that "Congress shall make no law . . . prohibiting the free exercise [of religion]."

The Establishment Clause of the First Amendment to the Constitution of the United States provides that

"Congress shall make no law respecting an establishment of religion."

STATEMENT OF THE CASE

This case concerns the application of the church autonomy doctrine in a defamation case. The question is whether the First Amendment prohibits a civil court from exercising jurisdiction over a defamation claim against a church by a church member based solely on the church's expression of religious terminology in the context of a church disciplinary action. May courts subject churches to legal action for their expression of terminology, such as "spirit of Satan," which is clearly not purely secular?

In March 1999, Jane Kliebenstein and her husband, Glen, were members of the United Methodist Church of Shell Rock. (App. 2). Jerrold Swinton, an ordained minister, was the District Superintendent of the United Methodist Church of the district in which the church in Shell Rock sits. (App. 2). There arose some significant internal strife within the church in Shell Rock. Apparently, much of the internal strife within the church centered around Jane Kliebenstein, including her dissatisfaction with Pastor Julie M. Poore-Christensen as the new pastor of the Shell Rock church. Pastor Swinton responded to the reports of this strife by visiting the church in Shell Rock one Sunday morning. (App. 2). While Pastor Swinton was in attendance, Jane Kliebenstein whispered to Pastor Swinton that the Pastor of Shell Rock needed to leave the church. (App. 2, 33).

In response to what Pastor Swinton observed on his visit to Shell Rock, he followed the United Methodist

Church *Book of Discipline*[1] to write a letter, also signed by the members of the Staff Parish Committee, to the congregational mailing list about his concerns for the church in Shell Rock. (App. 33-36). The congregational mailing list included members of the church and others who voluntarily submitted to be on the church mailing list. While it was the intention of Pastor Swinton only to send the letter to official members of the church, the letter was sent to the entire church mailing list, which included one deceased person, spouses of members, and a handful of others on the mailing list who were not official members[2] of the church at that time. (App. 37-41).

The letter was drafted and authorized pursuant to the provisions of the *Book of Discipline*, which provides for the calling by the church of a conference for the purpose of disciplining a church member. In the letter, which is the sole focus of the litigation in this case, addressing "[d]ear Brothers and Sisters in Christ," Pastor Swinton called for a meeting to consider stripping Jane Kliebenstein of her

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[1] The *Book of Discipline* for the United Methodist Church is the official teaching, law, polity and governance of the United Methodist Church.

[2] Whether the letter was only sent to members or to members and non-members of the congregation is irrelevant to the question presented in this case. "The church autonomy doctrine is rooted in protection of the First Amendment rights of the church to discuss church doctrine and policy ***freely***." *See Bryce v. Episcopal Church in the Diocese of Colo.*, 289 F.3d 648, 658 (10th Cir. 2002) (emphasis added). Regardless of who received the letter, the issue presented in this case is whether a court may subject a church to legal action for its expression of religious terminology. Moreover, the church autonomy doctrine "focuses on the right of the church to engage freely in ecclesiastical discussions with members and non-members." *Id.* at 658.

"church offices" and to consider asking her to leave the church if her dissension continued. (App. 35).

Within this context of invoking church disciplinary action, Pastor Swinton also addressed what he believed to be the root of the problem at the church in Shell Rock in the same letter. The letter stated:

> When will you stop the blaming, negative and unhappy persons among you from tearing down the spirit of Jesus Christ among you? Jesus faced this same problem and tells the church to take action. Matthew 18:15-17. You know whether a person has the spirit of Jesus or the spirit of Satan by their fruits – see Matthew 7:15-20 . . . When the congregation of Shell Rock is ready to acknowledge they allowed the spirit of Satan to work in their midst, express some contrition and seek help – then help will come which can be followed with healing – 1 John 3:4-10.

(App. 34-35).[3] Pastor Swinton identified an ecclesiastical problem within the church, followed ecclesiastical procedures, spoke through his letter in ecclesiastical terms, and proposed an ecclesiastical solution to the problem as he identified it. Jane Kliebenstein and her husband responded by filing a suit for defamation in the Iowa District Court for Butler County.

The Iowa District Court for Butler County, on motion, granted summary judgment on behalf of Defendants, citing the Establishment Clause of the First Amendment

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[3] For the purpose of summary judgment only, Defendants conceded that the "spirit of Satan" referred to Jane Kliebenstein.

to the Constitution of the United States as controlling this issue. (App. 14). The court held that "[i]n this case, however, the allegedly defamatory statement necessarily requires an examination of religious teachings and doctrinal issues." (App. 24). The district court relied on this Court's analysis of the church autonomy doctrine to support its conclusion. (App. 14-17) (citing *Watson v. Jones*, 80 U.S. 679 (1871); *Presbyterian Church v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 447 (1969) ("the logic of this language [referring to Watson] leaves the civil courts *no* role in determining ecclesiastical questions") (emphasis in original); *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696 (1976)).

The Supreme Court of Iowa reversed the district court without dissent. *See Kliebenstein v. Iowa Conference of the United Methodist Church*, 663 N.W.2d 404 (Iowa 2003); (App. 1) ("*Kliebenstein*"). Defendants asserted that the Free Exercise Clause and the Establishment Clause prohibit a civil court from exercising jurisdiction to decide a defamation case arising out of the context of church disciplinary action. In such a case, "adjudication of plaintiffs' claims would entangle the court in church doctrine, a matter clearly beyond its jurisdiction." (App. 4). The court noted that defendants raised the objection that "[d]efamation actions are precluded by the First Amendment when an examination of the truth of the allegedly defamatory statements would require an impermissible inquiry into church doctrine and discipline." (App. 6) (citing 50 Am. Jur. 2d *Libel and Slander* § 117, at 420 (1995)). Furthermore, defendants argued that "in order to determine whether the term 'spirit of Satan' is defamatory – or truthful – as applied to Kliebenstein, a factfinder

would necessarily be required to study and interpret church theology and beliefs concerning Satan." (App. 6).

The Iowa Supreme Court stated that "the dispositive question on appeal" is "whether the phrase 'spirit of Satan' has a secular meaning that could be applied in a civil suit for defamation." (App. 6). Defendants offered Dr. Elmer Coyler's affidavit (App. 26-32) to demonstrate that the term "Satan" is a religious term. The court acknowledged that the term "Satan" "has evolved and now impl[ies] a variety of meanings between – and even within – religious denominations." (App. 7).

The Iowa Supreme Court first turned to Webster's New World Dictionary to find a secular definition of the term "Satan." (App. 7). In Webster's, Satan is defined as "the great enemy of man and of goodness; the Devil: usually identified with Lucifer, the chief of the fallen angels." (App. 7). The court, after finding only an ecclesiastical definition of "Satan," sought to define the term "Devil" that appeared in the definition of "Satan." The court cited the definition of "Devil" in American Heritage Dictionary, noting that it has "many dictionary meanings," including an "extremely wicked person: FIEND" and "a person who is energetic, mischievous, daring or clever." (App. 7-8).

The court, without explanation, then went to another dictionary, Webster's Ninth New Collegiate Dictionary, to define the terms "satanic" and "satanism" as "characterized as extreme cruelty or viciousness" and "innate wickedness." (App. 7). The court cited Webster's Ninth New Collegiate Dictionary to define "spirit" as "'an animating or vital principle held to give life to physical organisms' or, more simply, as 'an inclination, impulse, or tendency of a

specified kind: MOOD.'" (App. 8). Using all of these definitions collectively, the court concluded that the phrase "spirit of Satan" has a secular meaning. The court did not undertake an effort to identify exactly what the secular definition of "spirit of Satan" is. The Iowa Supreme Court held that the church autonomy doctrine did not bar jurisdiction and remanded the case for trial.

REASONS FOR GRANTING THE PETITION

This Court has not addressed the church autonomy issue under the First Amendment in over twenty-four years. *See Jones v. Wolf*, 443 U.S. 595 (1979). In this time, a conflict has arisen and there is massive confusion among the states on this core issue of constitutional significance nationwide. The First Amendment currently means something different from state to state across the country. This Court's intervention is necessary and the petition should be granted.

I. THERE IS A DIRECT CONFLICT BETWEEN THE STATES.

The states are in great conflict over the church autonomy doctrine. Some states choose never to exercise jurisdiction over issues that are not purely secular while other states are willing to decide not only ecclesiastical disputes, but also interpret and apply church doctrine and laws in the process. One state will exercise jurisdiction over defamation claims involving ecclesiastical terms while another state will refuse to exercise jurisdiction over defamation claims involving secular terms because such terms still implicate "the conformity of the members of the church to the standards of morals required of them." *See Watson v. Jones*, 80 U.S. 679,

733 (1871). This Court should grant the petition for a writ of certiorari to resolve this conflict so that the First Amendment will not continue to have a different meaning from state to state.

The Iowa Supreme Court's decision in *Kliebenstein* is in direct conflict with the decisions of many other state courts of last resort and lower state courts, including Hawaii, Georgia, Montana, Oklahoma, Massachusetts, Virginia, Maryland, Ohio, Minnesota, and Indiana. *See O'Connor v. Diocese of Honolulu*, 885 P.2d 361, 368 (Haw. 1994); *Rasmussen v. Bennett*, 741 P.2d 755, 758-59 (Mont. 1987) (claims not actionable); *Crosby v. Lee*, 76 S.E.2d 856, 859 (Ga. 1953); *Hadnot v. Shaw*, 826 P.2d 978, 988-89 (Okla. 1992); *Hiles v. Episcopal Diocese of Mass.*, 773 N.E.2d 929, 936-38 (Mass. 2002); *Ja-Woo Cha v. Korean Presbyterian Church*, 553 S.E.2d 511, 514-15 (Va. 2001), *cert. denied*, 535 U.S. 1035 (2002); *Downs v. Roman Catholic Archbishop*, 683 A.2d 808, 811-13 (Md. Ct. Spec. App. 1996) (specifically noting the lack of any specific guidance by Supreme Court of the United States regarding the application of the church autonomy doctrine to a defamation claim); *Howard v. Covenant Apostolic Church, Inc.*, 705 N.E.2d 385 (1st Dist. Hamilton County – Ohio 1997), *dismissed, appeal not allowed*, 688 N.E.2d 1043 (1998); *Schoenhals v. Mains*, 504 N.W.2d 233 (Minn. Ct. App. 1993); *Brazauskas v. Fort Wayne-South Bend Diocese, Inc., et al.*, 714 N.E.2d 253 (Ind. Ct. App. 1999). These courts held that they lacked subject matter jurisdiction to adjudicate a defamation claim against the church.

However, a number of states agree with the fundamental decision of *Kliebenstein*, including Alaska, Oregon, California, New York and Pennsylvania. *See McAdoo v.*

Diaz, 884 P.2d 1385, 1391 (Alaska 1994) (First Amendment only gives the church or pastor a conditional privilege to speak); *Marshall v. Munro*, 845 P.2d 424, 428 (Alaska 1993); *Murphy v. Harty*, 393 P.2d 206, 214 (Ore. 1964); *Brewer v. Second Baptist Church*, 197 P.2d 713 (Cal. 1948); *Berger v. Temple Beth-El of Great Neck*, 756 N.Y.S.2d 94 (App. Div. 2d Dep't 2003); *Bear v. Reformed Mennonite Church*, 341 A.2d 105, 107 (Pa. 1975). In two of these states, the courts of last resort decided cases with substantially similar facts as found in *Kliebenstein*, including holding that references to "vile spirit," "one of Satan's choicest tools" and carrying out "satan's plan of division and destruction" were defamatory statements, actionable in a civil court.

A. Cases that agree with the fundamental decision in *Kliebenstein*

Kliebenstein is not an anomaly, but is part of a group of a number of states who agree with its decision that courts may exercise subject matter jurisdiction in spite of the church autonomy doctrine.

A case very similar to *Kliebenstein* is *Brewer*, 197 P.2d 713. In *Brewer*, the California Supreme Court upheld a libel judgment in favor of two plaintiffs who were members of the defendant Second Baptist Church of Los Angeles. The church drew up "charges" against the two plaintiffs including describing one of the plaintiffs as having a "vile spirit," while both plaintiffs were charged with association with another person who was "one of Satan's choicest tools." *Id.* at 716. The "charges" were read to the membership and included in a press release to the local press and

a Baptist newspaper of national circulation. The court affirmed the lower court's judgment against the Church.

Similarly, the Oregon Supreme Court in *Murphy*, 393 P.3d 206, affirmed a defamation claim against a pastor of a church brought by a former pastor. The defendant pastor sent two letters to another pastor concerning the plaintiff pastor's improper conduct as a missionary in Japan. One of the letters referred to the plaintiff pastor as carrying "out satan's plan of division and destruction." *Id.* at 212. The Oregon Supreme Court held that the phrase "carrying out 'satan's plan of division and destruction" was an actionable defamation claim. *Id.* at 214.

The Supreme Court of Pennsylvania in *Bear*, 341 A.2d 105, held that the practice of "shunning" "may be an excessive interference within areas of 'paramount state concern,' i.e., the maintenance of marriage and family relationship, alienation of affection, and the tortious interference with a business relationship, which the courts of this Commonwealth *may* have authority to regulate, even in light of the 'Establishment' and 'Free Exercise' clauses of the First Amendment." *Id.* at 107 (emphasis in original).[4] Thus, the plaintiff's case was not dismissed but rather was remanded so that it could proceed.

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[4] The Supreme Court of Pennsylvania cited *Sherbert v. Verner*, 374 U.S. 398 (1963), to support its holding. If a state thinks it may regulate "shunning" at all under *Sherbert*, then there is no question, in light of the change in religion clause jurisprudence since *Sherbert*, especially in recognition of this Court's decision in *Employment Div. v. Smith*, 494 U.S. 872 (1990), that the state still thinks it may regulate "shunning."

B. Cases that conflict with the fundamental decision in *Kliebenstein*

In conflict, more of the states that have dealt with the issue of whether a church may be brought into court for making theologically motivated statements have held that they are without subject matter jurisdiction to decide the issue, lest they involve themselves in ecclesiastical disputes. The Supreme Court of Hawaii, for example, held that the court is without subject matter jurisdiction to adjudicate a defamation claim brought against the Catholic Church and a bishop. *See O'Connor*, 885 P.2d 361. In *O'Connor*, the plaintiff accused the defendants of defamatory remarks, including accusing the plaintiff of schism, "misrepresenting the Catholic faith," coming "from a neolithic mind frame," being a "fanatic," "duping the faithful," causing "others to suffer the loss of their immortal souls," and stating that the only way to redeem the lost souls was to excommunicate the plaintiff. *Id.* at 367-68. The Supreme Court of Hawaii, citing to *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 710-11 (1976), held that the court is barred by the First Amendment from exercising jurisdiction to decide the defamation claim presented by the plaintiff.

In *Rasmussen*, 741 P.2d 755, plaintiffs brought a defamation claim based on statements made before the congregation that the plaintiffs were "disfellowshipped" for "conduct unbecoming Christians" and that "[w]e got the filth cleaned out of the congregation, now we will have God's spirit." *Id.* at 756. The Montana Supreme Court held

that plaintiffs' defamation claim was barred by the Free Exercise Clause of the federal constitution.[5]

In *Schoenhals*, 504 N.W.2d 233, a defamation action brought by church members against the church and the pastor, the court held that "since examination of the truth of Mains' statements would require an impermissible inquiry into Church doctrine and discipline, the district court did not err in concluding that the defamation claim is precluded by the First Amendment." *Id.* at 236. In *Schoenhals*, the pastor read a letter to the entire congregation that formed the basis for the church members' claim of defamation. *Id.* at 235. The letter included accusing the plaintiff-members of "a lack of . . . faithful tithing," "a desire . . . to consistently create division, animosity and strife in fellowship," and "direct fabrication of lies." *Id.* at 234. This letter was written as part of a disciplinary action taken against the plaintiff-members. The court went on to hold that "[w]hile Mains' statement that the Schoenhals had engaged in 'direct fabrication of lies with the intent to hurt the reputation and the establishment' of the Church appears unrelated to church doctrine on its face, the statement nevertheless relates to the Church's reasons and motives for terminating the Schoenhals' membership." *Id.* at 236. Thus, under Minnesota's interpretation of the First Amendment, great importance is placed not only on the words used by the church or pastor but also the

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[5] The court also found it to be irrelevant that the alleged defamatory statements were also communicated to non-members of the congregation. *See Rasmussen*, 741 P.2d at 758 (citing *Redgate v. Roush*, 59 P. 1050 (Kan. 1900)). This issue is also irrelevant to the question presented in this case. *See*, *supra*, footnote 2.

disciplinary context in which those words were used. Even facially secular words may be used in an ecclesiastical context that takes the adjudication of any claim arising out of those words outside of the jurisdiction of the court.

The Georgia Supreme Court, in *Crosby*, 76 S.E.2d 856, held that the court is without jurisdiction under the "United States Constitution" as well as their state constitution to decide whether remarks made in a letter and stated in a sermon are defamatory. The letter, written by the pastor and addressed to "brethren and sisters in the Lord," and confirmed as true orally during a sermon in front of the congregation, alleged that the plaintiff was "bastardly," was an "Edomite," and reference, although figurative as the court pointed out, was made to "the innocent blood he had shed." *Id.* at 858. The court recognized that this letter, especially being written in the course of a disciplinary action, was not cause for the court to interfere with ecclesiastical concerns.

In *Howard*, 705 N.E.2d 385, the plaintiff brought, among other claims, a claim for defamation. The church "disfellowed" plaintiff and statements were made by church officials that plaintiff was a liar, "that he was in league with Satan, that he had been overtaken by a fall, that he was a defiler of the temple and an enemy of the church, and that he was 'sleeping around.'" *Id.* at 388. The Ohio court, in contrast to *Kliebenstein*, held the court was without jurisdiction to adjudicate these defamation claims. In so holding, the Ohio court pointed out that these statements concerned issues of the plaintiff's morality. *See id.* The court further held that a "secular tribunal" is prohibited from exercising jurisdiction over issues concerning "internal church discipline and 'the conformity of the

members of the church to the standards of morals required of them.'" *Id.* (citing *Watson*, 80 U.S. at 733).

These examples of states applying the church autonomy doctrine demonstrate the massive conflict among the states concerning the First Amendment prohibition on civil courts adjudicating ecclesiastical disputes. It is important to resolve this conflict between the states so that the First Amendment can have uniform application for the entire nation instead of taking on a different meaning from state to state.

II. THERE IS CONFUSION AMONG COURTS REGARDING THE APPLICATION OF THE CHURCH AUTONOMY DOCTRINE THAT THIS COURT MAY CLEAR UP WITH THE CASE AT BAR.

By taking this case, the Court will clear up much confusion surrounding the church autonomy doctrine. Whether the church autonomy doctrine is being applied in a defamation case, another tort action or in any other dispute, the two central questions remain the same – when do courts have subject matter jurisdiction and what are the limits when courts do have jurisdiction. Answering these simple questions will add great clarity to the law in all church autonomy cases, not just the case at bar.

The predicate question a court must analyze before adjudicating any dispute, especially one grounded in the ecclesiastical realm, is whether the court has subject matter jurisdiction to resolve the issue. The church autonomy doctrine is a longstanding doctrine that divests civil courts of jurisdiction to hear ecclesiastical disputes. *See Watson*, 80 U.S. 679; *Gonzalez v. Roman Catholic*

Archbishop of Manila, 280 U.S. 1 (1929); *Kedroff v. Saint Nicholas Cathedral*, 344 U.S. 94 (1952); *Presbyterian Church*, 393 U.S. 440; *Milivojevich*, 426 U.S. 696.

The last time the Court addressed the church autonomy doctrine was 1979. *See Jones*, 443 U.S. 595. Since that time there have been significant changes and developments in Establishment Clause and Free Exercise Clause jurisprudence. *See, e.g., Employment Div. v. Smith*, 494 U.S. 872 (1990) (change in Free Exercise Clause jurisprudence); *Mitchell v. Helms*, 530 U.S. 793 (2000); *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002). Moreover, the two leading scholars in church autonomy doctrine, Professor Douglas Laycock and Professor Carl Esbeck, cannot agree on whether the church autonomy doctrine is rooted in the Establishment Clause or the Free Exercise Clause or how the ultimate analysis under the doctrine takes shape. *See* Douglas Laycock, *Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy*, 81 Colum. L. Rev. 1373 (1981); Carl H. Esbeck, *The Establishment Clause as a Structural Restraint on Governmental Power*, 84 Iowa L. Rev. 1 (1998). It is thus not surprising that the states need guidance.

Kliebenstein is not an isolated case or merely an aberration. It is an example of a wide divergence of approaches to resolving disputes between churches and church members, especially in the area of defamation. The church autonomy doctrine is unique in that the majority of courts interpreting and applying the religion clauses of the First Amendment are state courts. In this context, without specific guidance from this Court, the First Amendment

can and has taken on a different meaning from state to state as outlined in the previous section.

While most often state courts are left to apply the church autonomy doctrine, the federal circuit courts of appeals have likewise applied the church autonomy doctrine. The Tenth Circuit, in contrast to *Kliebenstein*, held that the threshold question in a defamation case where the church autonomy doctrine is at issue is whether the alleged defamatory statements were "ecclesiastical statements protected by church autonomy or **purely secular** ones." *Bryce v. Episcopal Church in the Diocese of Colo.*, 289 F.3d 648, 657 (10th Cir. 2002) (emphasis added).

It is irrelevant whether the alleged defamatory statements were made to members only or members and non-members. *Id.* at 658. The focus of the analysis is on the characterization and context of the alleged defamatory statements. Unless the court can identify the statements as "purely secular," the court is without jurisdiction to decide the defamation claim. The Iowa Supreme Court in *Kliebenstein*, however, sought to characterize the issue as whether the alleged defamatory statements were "purely ecclesiastical," thus putting the burden on the defendants to prove the purely religious nature of the statements. In that sense, the church autonomy doctrine does not serve to restrain the power of the court.

Some courts, to be sure, may have been confused by this Court's use of the phrase "purely ecclesiastical" in *Gonzalez*, 280 U.S. at 16 (1929). Some courts, for example, hold that courts only lack jurisdiction to decide suits involving **purely ecclesiastical** matters. *See, e.g., First United Church v. Udofia*, 479 S.E.2d 146, 149 (Ga. Ct. App. 1996); *see also* (App. 4). This kind of confusion

regarding the actual standard used to determine whether a court is exercising jurisdiction improperly has led to some courts engaging in bizarre analysis.

An egregious example of a civil court exercising jurisdiction over ecclesiastical matters is found in Alabama. In *Yates v. El Bethel Primitive Baptist Church*, 847 So.2d 331, 334 (Ala. 2002), the Alabama Supreme Court, just last year, held that ecclesiastical decisions, made within the context of a church disciplinary procedure, are subject to civil court review to determine whether the church followed church law. It was the opinion of the Alabama Supreme Court that it is "clear that a Church must be governed by the rules it has chosen to be governed by." *Id.* at 335. Further, "this Court has read these rules from beginning to end . . . [t]hese rules should have been followed to the letter." *Id.* The issue, framed by the court, was "whether the actions by Reverend Yates are contemptuous and whether the election of new Deacons was the result of a valid election. That is, was it held in accordance with the rules the Church has agreed to be bound by?" *Id.* at 334.

Such analysis is contrary to this Court's precedent in *Presbyterian Church*, 393 U.S. at 449 ("The civil court must first decide whether the challenged actions of the general church depart substantially from prior doctrine. In reaching such a decision, the court must of necessity make its own interpretation of the meaning of church doctrines. Thus, the departure-from-doctrine element of the Georgia implied trust theory requires the civil court to determine matters at the very core of a religion – the interpretation of particular church doctrines and the importance of those doctrines to the religion. **Plainly, the First Amendment forbids civil courts from playing such a role.**").

There is no uniform application of the church autonomy doctrine with respect to defamation claims. This is not a surprise since this Court has not touched this issue in over twenty-four years. Across the country, state and federal courts are forced to grapple with an age-old doctrine where some courts may be unsure if it even applies to defamation claims, some courts analyze the applicability of the doctrine under the Establishment Clause, some courts analyze the doctrine under the Free Exercise Clause, some courts use both clauses, and some courts, unfortunately, do not even address the issue. The result has been extremely unique for constitutional law jurisprudence because the meaning of the First Amendment changes as one travels from state to state. Without some guidance from this Court, the diverging paths of applying the First Amendment in this area of the law will continue to widen.

III. THIS CASE IS TIMELY FILED UNDER THE FINAL JUDGMENT RULE.

The final judgment rule ordinarily requires litigation on the merits of the case to reach a final conclusion, leaving the court to decide nothing further and execute the final judgment. *See Cunningham v. Hamilton County*, 527 U.S. 198 (1999); 28 U.S.C. § 1257(a). There is, however, a limited exception to the final judgment rule when a state court finally decides a federal claim or defense, as the Iowa Supreme Court did in this case. *See, e.g., Pennsylvania v. Ritchie*, 480 U.S. 39 (1987).

The Court, in *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469 (1975), identified four categories of cases where the Court has taken jurisdiction without awaiting the

completion of the additional proceedings anticipated in the lower state courts. These categories are: (1) cases where there are further proceedings yet to occur in the state court but a federal issue controls the outcome of the case; (2) cases where the federal issue will survive and require a decision, regardless of the outcome of the anticipated state proceedings; (3) cases where "further proceedings on the merits in the state courts are yet to come, but in which later review of the federal issue cannot be had, whatever the ultimate outcome of the case"; and (4) cases where "the party seeking review here might prevail on the merits on nonfederal grounds, thus rendering unnecessary review of the federal issue by the Court, and where reversal of the state court on the federal issue would be preclusive of any further litigation . . . [in] the state proceedings still to come." *Id.* at 479-83.

The church autonomy doctrine, grounded in the religion clauses of the First Amendment, which divests a civil court of subject matter jurisdiction over a case, is a federal issue. *See Millivojevich*, 426 U.S. at 710; *Presbyterian Church*, 393 U.S. 440; *Watson*, 80 U.S. at 733. Indeed, the First Amendment issue in *Kliebenstein* is dispositive of the entire case. *Kliebenstein* falls within two (1 and 4) of the categorical exceptions to the final judgment rule outlined in *Cox*.

First, while there are further proceedings yet to occur in the state court (the undaunting task of proving the falsity or truth that Jane Kliebenstein is the "spirit of Satan"), the church autonomy doctrine controls the outcome of the case by divesting the court of jurisdiction even to consider the issue. Second, it may be the case that defendants, the party seeking review of the federal issue by this Court, might prevail on the merits by plaintiffs

being unable to prove the falsity of the characterization of Jane Kliebenstein as the "spirit of Satan" or defendants proving the truth of that assertion. If such events come to pass, it would be unnecessary for this Court to review the federal issue involved in this case. However, if this Court reverses the Iowa Supreme Court's decision and finds that the court is without subject matter jurisdiction to adjudicate Plaintiff's claims, then that decision would be preclusive of any further litigation in the state proceedings still to come.

In addition to meeting two of the four exceptions outlined in *Cox*, the assertion of the defense of church autonomy by a church "is similar to a government official's defense of qualified immunity." *Bryce*, 289 F.3d at 654. This is so because the church autonomy doctrine exists to shield certain defendants from even being brought into the courthouse in the first place, a similar purpose as qualified immunity. A court's "denial of a claim of qualified immunity, to the extent that it turns on an issue of law, is an appealable 'final decision' within the meaning of 28 U.S.C. § 1291 notwithstanding the absence of a final judgment." *Mitchell v. Forsyth*, 472 U.S. 511, 530 (1985). Thus, there is no doubt that the decision in *Kliebenstein* is a final judgment reviewable by this Court at this time.

CONCLUSION

Without specific guidance on this issue from the Court, cases such as *Kliebenstein* will continue to have a chilling effect on church speech and free exercise. Churches, especially those of large denominations with mandated or entrenched customary practices developed

over centuries, will be pressured to break away from church doctrine to avoid litigation or comply with the suggestions of their insurers. The First Amendment should not mean something different from state to state across the country, especially in such a crucial area of religious liberty.

For the foregoing reasons, Petitioners ask this Court to grant their petition for a writ of certiorari.

Respectfully submitted,

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IN THE SUPREME COURT OF IOWA

No. 10/02-0011
Filed June 11, 2003

JANE KLIEBENSTEIN and GLEN KLIEBENSTEIN,

Appellants,

vs.

IOWA CONFERENCE OF THE UNITED METHODIST CHURCH, THE UNITED METHODIST CHURCH OF SHELL ROCK, IOWA, JERROLD W. SWINTON, RICK KROMMINGA, KAREN WAHL, KAY J. LAHR and KAREN L. PETERSON,

Appellees.

Appeal from the Iowa District Court for Butler County, Jon Stuart Scoles, Judge.

Plaintiffs challenge summary dismissal of claims for defamation. **REVERSED AND REMANDED.**

Thomas C. Verhulst of Gallagher, Langlas & Gallagher, P.C., Waterloo, for appellants.

L. R. Voigts and Jodi L. Ahlman of Nyemaster, Goode, Voigts, West, Hansell & O'Brien, P.C., Des Moines, for appellees.

NEUMAN, Justice.

This appeal involves a church-related controversy, an area of discord traditionally considered "off limits" for civil courts. Plaintiff, Jane Kliebenstein, claims she can overcome that jurisdictional hurdle here because church

officials' allegedly defamatory statements about her carried secular overtones and were published to non-members of the church. We agree that she has an actionable, albeit limited, claim that cannot be resolved by way of summary judgment. We therefore reverse the district court's dismissal and remand for further proceedings.

I. Background Facts and Proceedings.

The controlling facts are not disputed. In March 1999, Jane Kliebenstein and her husband, Glen, were members of Shell Rock United Methodist Church (UMC). Defendant Jerrold Swinton was the UMC district superintendent. Prompted by reports of strife within the congregation, Swinton (who is an ordained minister) visited the Shell Rock church one Sunday morning. He then wrote the letter that is at the heart of this controversy.

Swinton's letter, which was also signed by the members of the Staff Parish Committee, was mailed not only to members of the congregation but also to other persons living in the Shell Rock community. Portions of the letter pertinent to these proceedings are quoted below:

> A few months ago I attended worship in Shell Rock and I rejoiced to see so many young families in church. I was in despair when Jane Kliebenstein made an effort to whisper scornfully to me that this pastor must leave Shell Rock. . . .
>
> . . . .
>
> Folks, when is enough, enough? When will you stop the blaming, negative and unhappy persons among you from tearing down the spirit of Jesus Christ among you? . . . You know whether a person has the spirit of Jesus or Satan by their

> fruits. . . . I am distressed and perplexed why people have tolerance and compassion for anyone who habitually tears down the Body of Christ by habitually sowing discord and pain.
>
> . . . .
>
> When the congregation of Shell Rock is ready to acknowledge they allowed the spirit of Satan to work in their midst, express some contrition and seek help – then help will come. . . .

Swinton's letter went on to advise that he and the Staff Parish Committee would call a "Church Conference" in accordance with established disciplinary procedures to "propose that Jane Kliebenstein be stripped of church offices. It is understood that if she continues to cause dissension, she will next be asked to leave the Shell Rock UMC."

The Kliebensteins responded with this suit for defamation. Their petition claimed the letter falsely attacked Jane's "integrity and moral character," causing damage to her reputation in the community. Glen sought damages for loss of consortium.

Following discovery, defendants moved for summary judgment. They conceded for purposes of the motion that Swinton's statement about the "spirit of Satan" referred to Jane Kliebenstein. They argued, however, that the phrase is a "purely ecclesiastical term, deriving its meaning from religious dogma" thereby preventing the court from adjudicating its impact in the context of a civil suit for defamation. The district court agreed, finding it was constitutionally without jurisdiction to entertain the controversy. This appeal by the Kliebensteins followed.

II. Issue on Appeal/Scope of Review.

Plaintiffs concede that the Free Exercise and Establishment Clauses of our federal and state constitutions preclude civil court interference in the disciplinary and governance matters of a religious entity. They urge this court to find, however, that the defendants "exceeded the protective confines of these clauses when they published their humiliating and disparaging remarks to individuals in the local community who were not members of the church nor allowed to participate in the disciplinary proceedings" brought against Jane. Defendants counter that adjudication of plaintiffs' claims would necessarily entangle the court in church doctrine, a matter clearly beyond its jurisdiction.

As this case reaches us on appeal from summary judgment proceedings, we are obliged to view the facts in the light most favorable to the parties resisting the motion, the plaintiffs. *Marks v. Estate of Hartgerink*, 528 N.W.2d 539, 544 (Iowa 1995). Summary judgment is appropriately granted only where there are no material facts in dispute and the moving party is entitled to judgment as a matter of law. *Behr v. Meredith Corp.*, 414 N.W.2d 339, 341 (Iowa 1987).

III. Analysis.

By its very nature, the controversy before us implicates the Establishment Clauses of the federal and Iowa constitutions. Iowa, like virtually every other jurisdiction, avoids "interfering in *purely* ecclesiastical matters." *Marks*, 528 N.W.2d at 544 (emphasis added).

> It is a general rule recognized here and in foreign jurisdictions, that ordinarily the courts have no

> jurisdiction over, and no concern with, purely ecclesiastical questions and controversies, including membership in a church organization, but they do have jurisdiction as to civil, contract, and property rights which are involved in or arise from a church controversy.

Brown v. Mt. Olive Baptist Church, 255 Iowa 857, 859, 124 N.W.2d 445, 446 (1963).

Plainly Iowa's courts could not entertain this case if it involved solely the discipline or excommunication of Jane Kliebenstein. *Marks,* 528 N.W.2d at 545. "[C]ivil courts are bound to accept the decisions of the highest judicatories of a religious organization of hierarchical polity on matters of discipline, faith, internal organization, or ecclesiastical rule, custom, or law." *Serbian Eastern Orthodox Diocese v. Milivojevich,* 426 U.S. 696, 713, 96 S. Ct. 2372, 2382, 49 L. Ed. 2d 151, 165 (1976); *accord Drevlow v. Lutheran Church, Missouri Synod,* 991 F.2d 468, 471 (8th Cir. 1993). Nor would her claim enjoy viability had the matter been divulged solely to the members of Shell Rock UMC. It is the general rule that

> the common interest of members of religious associations is such as to afford the protection of qualified privilege to communications between them in furtherance of their common purpose or interest. Thus, communications between members of a religious organization concerning the conduct of other members or officers in their capacity as such are qualifiedly privileged.

50 Am. Jur. 2d *Libel and Slander* § 340, at 663 (1995); *see Marks,* 528 N.W.2d at 546 (applying qualified privilege to statements made in context of church disciplinary proceedings).

The fact that Swinton's communication about Jane was published outside the congregation weakens this ecclesiastical shield. First, otherwise privileged communications may be lost upon proof of excess publication or publication "beyond the group interest." *Brewer v. Second Baptist Church of Los Angeles,* 197 P.2d 713, 717 (Cal. 1948) (citation omitted); *accord Marks,* 528 N.W.2d at 546. Second, if publication solely to church members justifies ecclesiastical status for otherwise defamatory communications, proof of publication to *non*-church members arguably supports the opposite conclusion. *See Schoenhals v. Mains,* 504 N.W.2d 233, 236 (Minn. Ct. App. 1993) (proof that alleged defamatory letter sent only to church members strengthened First Amendment claim precluding adjudication of "internal conflict within the Church").

Defendants counter that publication to *non*-church members is irrelevant here. Their defense rests on the general rule that "[d]efamation actions are precluded by the First Amendment when an examination of the truth of the allegedly defamatory statements would require an impermissible inquiry into church doctrine and discipline." 50 Am. Jur. 2d *Libel and Slander* § 117, at 420 (1995). Defendants contend that in order to determine whether the term "spirit of Satan" is defamatory – or truthful – as applied to Kliebenstein, a factfinder would necessarily be required to study and interpret church theology and beliefs concerning Satan. The contention brings us to the dispositive question on appeal: whether the phrase "spirit of Satan" has a secular meaning that could be applied in a civil suit for defamation without treading on – or wading into – religious doctrine.

Defendants rely heavily on an affidavit prepared by Rev. Dr. Elmer Colyer, professor of historical theology and

Wesley studies at the University of Dubuque Theological Seminary. Professor Colyer asserts that terms such as "Satan" and "devil" have their roots in religious doctrine. His affidavit also reveals that these terms have evolved and now imply a variety of meanings between – and even within – religious denominations. Thus, in his words, "to determine *within any specific ecclesiastical context* whether the use of the term, 'spirit of Satan,' is defamatory . . . it is necessary to determine the meaning of the term for the religious community or body." (Emphasis added.)

The weakness in defendants' reliance on this expert opinion is that publication of the letter was not limited to a "religious community or body." Given the nature of plaintiffs' claims, the proper focus of our inquiry is not on the meaning of "spirit of Satan" within an ecclesiastical context but to determine whether the phrase has a secular meaning. In other words, could a fact finder determine whether Kliebenstein was defamed without resort to theological reflection?

Perusing a standard dictionary convinces us that the term used by church officials to describe Jane Kliebenstein may have religious roots but also carries a common, and largely unflattering, secular meaning. "Satan" is defined as "the great enemy of man and of goodness; the Devil: usually identified with Lucifer, the chief of the fallen angels." Webster's New World Dictionary 1192 (3d ed. 1994). Definitions of "satanic" and "satanism" include "characterized by extreme cruelty or viciousness" and "innate wickedness." Webster's Ninth New Collegiate Dictionary 1044 (1986). "Devil" has many dictionary meanings, including "an extremely wicked person: FIEND," *id.* at 347, and "a person who is energetic,

mischievous, daring, or clever," American Heritage Dictionary 389 (2d ed. 1985). The word "spirit" is defined as "an animating or vital principle held to give life to physical organisms" or, more simply, as "an inclination, impulse, or tendency of a specified kind: MOOD." Webster's Ninth New Collegiate Dictionary 1137 (1986).

We conclude from these definitions that the phrase "spirit of Satan" has meaning in a secular, as well as sectarian, context. Our conclusion is fortified by considering other cases in which associating a party with Satan has become an issue. In *State v. Tate,* 341 N.W.2d 63, 64-65 (Iowa Ct. App. 1983), our court of appeals held a defendant charged with third-degree theft was denied a fair trial when the court refused his request to explain the contents of a book found in his possession upon his arrest, *Satan is Alive and Well on Planet Earth.* Based on the book's title and testimony by a police officer, the court concluded a jury could have believed the defendant was a "Satan worshipper," a fact "highly prejudicial to his case." *Id.* at 65. No sectarian discussion of religious dogma was needed for the court to determine that "[t]he prejudice to the defendant should have been obvious to the prosecutor." *Id.; see also Johnston v. Luebbers,* 288 F.3d 1048, 1061 (8th Cir. 2002) (describing prosecutor's description of defendant as Satan "improper" and "inflammatory").

When similar accusations of being "in league with Satan" are made in the context of a church meeting called to determine whether a member should be "disfellowed," a court of appeals has affirmed the dismissal of a defamation claim against the church. *Howard v. Covenant Apostolic Church, Inc.,* 705 N.E.2d 385, 388-89 (Ohio Ct. App. 1997). But where accusations of associating with "one of Satan's choicest tools" were lodged against a church

member in a national newspaper covering the affairs of the church, the California Supreme Court held the statements were actionable where exaggerated and, therefore, unprivileged. *Brewer,* 197 P.2d at 716-17.

Because we are convinced that the phrase "spirit of Satan" has a secular, as well as sectarian, meaning, and because the accusatory phrase was used by defendants to describe Jane Kliebenstein in a communication published to more than just church members, we hold plaintiffs' claim of defamation should not have been summarily dismissed by the district court on constitutional grounds. We therefore reverse and remand for further proceedings.

REVERSED AND REMANDED.

IOWA DISTRICT COURT FOR BUTLER COUNTY

JANE KLIEBENSTEIN and GLEN KLIEBENSTEIN, Plaintiff, vs. IOWA CONFERENCE OF THE UNITED METHODIST CHURCH; THE UNITED METHODIST CHURCH OF SHELL ROCK, IOWA; JERROLD W. SWINTON; RICK KROMMINGA; KAREN WAHL; KAY J. LAHR and KAREN L. PETERSON, Defendants.	No. LACV018800 ORDER FOR DISMISSAL (Filed Dec. 11, 2001)

BE IT REMEMBERED that on the 15th day of October, 2001, the above-entitled matter came on for hearing on the **MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT** filed by the defendants on September 10, 2001. The plaintiffs were represented by their attorney, Thomas C. Verhulst. The defendants were represented by their attorneys, L. R. Voigts and Jodi L. Ahlman.

In their alternative motion, the defendants request that the plaintiffs' petition be dismissed, or in the alternative that the defendants be granted summary judgment, for the reason that the court lacks subject matter jurisdiction. At the time of hearing, counsel for the plaintiffs indicated that he did not object to the procedural device of filing the motions in the alternative.

Assuming the truth of the allegations set forth in the petition, and viewing the evidence in the light most favorable to the plaintiffs, the facts underlying this controversy may be briefly stated as follows:

FINDINGS OF FACT

Plaintiff Jane Kliebenstein and her husband, plaintiff Glen Kliebenstein, were at all material times members of the United Methodist Church of Shell Rock, Iowa. Defendants Rick Kromminga, Karen Wahl, Kay J. Lahr, and Karen L. Peterson were at all material times members of the staff parish committee of defendant United Methodist Church of Shell Rock, Iowa. Defendant Jerrold W. Swinton was at all material times the district superintendent of the Waterloo district of the Iowa Conference of the United Methodist Church, which included the United Methodist Church of Shell Rock, Iowa.

On March 19, 2001, the plaintiffs filed the instant action in four counts: Count I is brought by Jane Kliebenstein and requests compensatory damages for allegedly defamatory statements published by the defendants. In Count II, Jane Kliebenstein alleges that the statements were made with malice, thereby entitling her to recover punitive damages. In Count III, Jane Kliebenstein claims that publication of the defamatory statements constituted intentional infliction of emotional distress, thereby entitling her to recover compensatory and punitive damages. Count IV is a claim by Glen Kliebenstein to recover for loss of spousal consortium.

All four counts arise following statements made in a letter dated March 22, 1999. The letter was authored by Swinton and signed by him and the four members of the

Shell Rock staff parish committee. The letter, which is addressed to "Dear Brothers and Sisters in Christ," begins as follows:

> "A few months ago I attended worship in Shell Rock and I, rejoiced to see so many young families in church. I was in despair when Jane Kliebenstein made an effort to whisper scornfully to me that this pastor must leave Shell Rock."

The letter asserts that Pastor Julie "has been under attack and undermined from the moment she set foot in Shell Rock." According to the letter, the Shell Rock church "is already known as a 'clergy graveyard.'" The letter continues:

> "Folks, when is enough, enough? When will you stop the blaming, negative and unhappy persons among you from tearing down the spirit of Jesus Christ among you? Jesus faced this problem and tells the church to take action. Matthew 18:15-17. You know whether a person has the spirit of Jesus or Satan by their fruits – see Matthew 7:15-20, I am distressed and perplexed why people have tolerance and compassion for anyone who habitually tears down the Body of Christ by habitually sowing discord and pain."

The letter then suggests that the "fault" in the church is "not your pastors, it is not your district superintendent, it is not the Conference." The letter continues:

> "When the congregation of Shell Rock is ready to acknowledge they allowed the spirit of Satan to work in their midst, express some contrition and seek help – then help will come which can be followed with healing – see 1 John 3:4-10."

The letter then indicates that a church conference had been scheduled. Among other things, "[t]he Shell Rock Staff Parish Committee will then propose that Jane Kliebenstein be stripped of church offices. It is understood that if she continues to cause dissension, she will next be asked to leave the Shell Rock UMC." The letter concludes:

> "Hopefully, the many loving members of this congregation, will step forward to restore a loving spirit of Jesus to this Body of Christ."

The letter was apparently mailed out by the Shell Rock church. Copies were sent to members and other persons in the Shell Rock Community who were not members of the church.

On April 12, 1999, a letter signed by Swinton and Kromminga was sent to church members, reminding them of the meeting on April 22, 1999. Apparently, the second letter was only sent to members of the church and indicated that only church members would be permitted to attend the meeting. In addition, the letter stated:

> "The reference to the spirit of Satan in the April 22 (sic) letter was not intended for one person, but for all of us who too often forget that we need to be about the business of our Lord. When Peter had his own agenda Jesus accused him on separate occasions of having the spirit of Satan. (Mark 8:33, Luke 22:31) We apologize to one and all if our prior letter was misread in regard to our Satan reference."

Additional facts as they pertain to the Conclusions of Law will be set forth below.

CONCLUSIONS OF LAW

The plaintiffs claim that Jane Kliebenstein was defamed by the reference to the "spirit of Satan" and, therefore, they are entitled to damages. While the second letter denies that the reference was "intended for one person," when viewing the evidence in the light most favorable to the plaintiffs, the court concludes that a jury could find that the reference was to Jane Kliebenstein. The defendants assert that subject matter jurisdiction is lacking due to the application of the Establishment Clause found in the First Amendment to the United States Constitution and Article I Section 3 of the Constitution of the State of Iowa. Accordingly, the defendants request that the petition be dismissed.[1]

The First Amendment to the United States Constitution, which is applicable to the states through the Fourteenth Amendment, provides, in pertinent part, as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . . " Article 1, Section 3 of the Iowa Constitution imposes an identical restriction on the Iowa General Assembly.

The United States Supreme Court has repeatedly held that the civil courts may not adjudicate disputes which require an ecclesiastical or doctrinal determination. This view was stated by the court in the often-cited case of *Watson v. Jones*, 80 U.S. 679 (1871), as follows:

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[1] In *Fonken v. Community Church of Kamrar*, 339 N.W.2d 810, 812 (Iowa 1983), Justice McCormick noted that "[i]t is a paradox that disputes among church members, like disputes in families, can become emotional and bitter despite the high motives and essential decency of the people involved."

> "The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. The right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations, and officers within the general association, is unquestioned. All who unite themselves to such a body do so with an implied consent to this government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if anyone aggrieved by one of their decisions could appeal to the secular courts and have them reversed. It is the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for."

In *Presbyterian Church v. Hull*, 393 U.S. 440, 89 S.Ct. 601, 21 L.Ed.2d 658 (1969), a case cited in the plaintiffs' brief, a church property dispute arose when two local churches withdrew from a hierarchical general church organization. The case was submitted to a jury, which was instructed to determine whether the actions of the general church amounted to a fundamental or substantial abandonment of the original tenets and doctrines of the church. In reversing the Georgia Supreme Court, the United States Supreme Court cited the language from *Watson* set forth above and indicated that "[t]he logic of this language leaves the civil courts *no* role in determining ecclesiastical questions in the process of resolving property disputes."

393 U.S. at 447, 89 S.Ct. at 605, 21 L.Ed.2d at 664. (Emphasis in original.)

In addition, however, the court recognized that "there might be some circumstances in which marginal civil court review of ecclesiastical determinations would be appropriate." *Id.*

> "[T]he First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes. It is obvious, however, that not every civil court decision as to property claimed by a religious organization jeopardizes values protected by the First Amendment. Civil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property. And there are neutral principles of law, developed for use in all property disputes, which can be applied without 'establishing' churches to which property is awarded." 393 U.S. at 449, 89 S.Ct. at 606, 21 L.Ed.2d at 665.

Similarly, in *Serbian Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976), the United States Supreme Court concluded that the Illinois Supreme Court improperly interfered with ecclesiastical determinations. Where resolution of a dispute cannot be made without extensive inquiry by civil courts into religious law and polity, the First and Fourteenth Amendments mandate that civil courts shall not disturb the decisions of the church. 426 U.S. at 709, 49 L.Ed.2d at 162.

> "In short, the First and Fourteenth Amendments permit hierarchical religious organizations to establish their own rules and regulations for internal discipline and government, and to create tribunals for adjudicating disputes over these

> matters. When this choice is exercised and ecclesiastical tribunals are created to decide disputes over the government and direction of subordinate bodies, the Constitution requires that civil courts accept their decisions as binding upon them." 426 U.S. at 724, 49 L.Ed.2d at 171.

The plaintiffs argue, however, that this is not a property dispute, but rather is a tort claim based on civil common law. The ecclesiastical abstention rule has been applied, however, in tort cases as well as in property disputes. *O'Connor v. Diocese of Honolulu*, 885 P.2d 361, 365 (Haw. 1994). A number of courts have considered the rule in the context of a defamation case.

In *Klagsbrun v. Va'ad Harabonim of Greater Monsey*, 53 F.Supp.2d 732 (N.J. 1999), the plaintiffs sued the governing body of a synagogue, alleging that they were defamed by a notice sent to various members. The court noted that "secular courts may decide civil disputes between a religious body and its members or its clergy if those disputes involve purely secular issues and can be resolved without entanglement with matters of faith, discipline, or doctrine." *Id.* at 738. In dismissing the action for lack of subject matter jurisdiction, however, the court concluded that "the plaintiffs' defamation claims would necessarily implicate ecclesiastical questions concerning the faith, discipline, rule, custom, or law of their religion." *Id.* at 739.

In *O'Connor v. Diocese of Honolulu*, supra, a parishioner who was excommunicated after he criticized the bishop, brought an action alleging defamation, among other things. The Hawaii Supreme Court identified the issue as "whether a state court can decide O'Connor's claims without resolving underlying controversies over

religious doctrine, church law, or church governments." 885 P.2d at 363. The court concluded that "[i]t is apparent that, to determine the truth or falsity of the statements, a state court would have to inquire into church teachings and doctrine." *Id.* at 368. Accordingly, the court applied the ecclesiastical abstention rule and dismissed the action for lack of subject matter jurisdiction.

In *Farley v. Wisconsin Evangelical Lutheran Synod*, 821 F.Supp. 1286 (Minn. 1993), a former pastor brought an action against the church for defamation. The court noted that "the court lacks jurisdiction over an action if the inquiry it would have to undertake to resolve the issues before it requires analysis of the religious organization's decision making process or excessive entanglement in the organization's religious affairs." *Id.* at 1289. The plaintiff argued, however, that a resolution of his defamation claim would not implicate the First Amendment because the dispute did not require an examination of church procedures or ecclesiastical decisions. In rejecting the plaintiff's argument, the court stated:

> "Although factual scenarios might exist where resolution of a defamation action against a religious organization would not require the court to undertake an inquiry in violation of the First Amendment, this case does not present such a situation." *Id.* at 1290.

In *Schoenhals v. Mains*, 504 N.W.2d 233 (Minn. App. 1993), the court noted that the First Amendment precludes "excessive entanglement" by the court in religious matters. *Id.* at 235. The plaintiffs sued the pastor of their church for defamation following the publication of a letter listing reasons why the plaintiffs had been terminated from membership in the church. The district court granted

summary judgment to the church and dismissed the plaintiffs' claim. The Minnesota Court of Appeals affirmed, finding that an examination of the substance of the letter would require "an impermissible inquiry into Church disciplinary matters." *Id.* at 236. *See also, Black v. Snyder*, 471 N.W.2d 715, 720 (Minn. App. 1991) (a review of the plaintiffs' defamation claim would require a review of the church's reasons for discharging the plaintiff, "an essentially ecclesiastical concern.")

In *McManus v. Taylor*, 521 So.2d 449 (La. App. 1988), a former minister brought an action against the church alleging defamation. The trial court overruled the defendant's claim that the court lacked subject matter jurisdiction on the issue. The Louisiana Court of Appeals reversed, finding that the plaintiff's defamation claim "would subject his church authorities to a defamation case based upon the performance of their duties in the administration of their church." *Id.* at 451.

In *Williams v. Gleason*, 26 S.W.3d 54 (Tex. App. 2000), church members who were disciplined by the church elders brought an action for libel, slander, and intentional infliction of emotional distress. Among other things, the elders had sent a letter to the plaintiffs alleging that "you have sinned by sowing seeds of discord among the brethren." *Id.* at 57, fn. 4. The court concluded that the First Amendment prohibited civil courts from intruding into ecclesiastical matters. The court found that "each claim implicates an ecclesiastical matter, namely [the plaintiff's] subjection to the church's discipline." *Id.* at 59.

> "Although wrongs may exist in the ecclesiastical setting, and although the administration of the church may be inadequate to provide a remedy, the preservation of the free exercise of religion is

> deemed so important a principle it overshadows the inequities that may result from its liberal application." *Id.*

In support of their position, the plaintiffs cite *Murphy v. Harty*, 393 P.2d 206 (Ore. 1964) and *Brewer v. Second Baptist Church of Los Angeles*, 197 P.2d 713 (Cal. 1948). In both cases, the courts discuss the doctrine of privilege as it applies to allegedly defamatory communications in a religious context. Neither case discusses the constitutional issue raised by the defendants in the instant action. That is, the cases do not address the issue of whether the establishment clause of the federal and state Constitutions prohibits the court from assuming subject matter jurisdiction.

Plaintiffs also cite *McAdoo v. Diaz*, 884 P.2d 1385 (Alas. 1994). There, a parishioner was dismissed from several of her volunteer positions after she reported to the state that the church's plans for an altar without a handrail constituted elder abuse or neglect under state law. The plaintiff sued, alleging that the church's actions violated the "whistleblower" protection of the elder neglect reporting statute and that the pastor had defamed her in a dismissal letter. *Id.* at 1386. Most of the court's opinion was addressed to the whistleblower provisions of Alaska's elder abuse law. In concluding that the plaintiff's defamation claim was not barred by the state or federal constitutions, the court noted that "a cause of action against a minister could proceed only if the elements of the claim did not require the court to evaluate the qualifications of the minister or interpret church dogma." *Id.* at 1390. The court concluded that the plaintiff's claim "does not touch the merits of any core religious questions." *Id.*

The Iowa courts have also recognized the general rule that the courts have no jurisdiction over ecclesiastical issues.

> "It is a general rule recognized here and in foreign jurisdictions, that ordinarily the courts have no jurisdiction over, and no concern with, purely ecclesiastical questions and controversies, including membership in a church organization, but they do have jurisdiction as to civil, contract, and property rights which are involved in or arise from a church controversy." *Brown v. Mt. Olive Baptist Church*, 124 N.W.2d 445, 446 (Iowa 1963).

See also, Pierce v. Conference of Seventh-Day Adventists, 534 N.W.2d 425, 427 (Iowa 1995) ("The First and Fourteenth Amendments to the United States Constitution prohibit courts from interfering with ecclesiastical decision making.")

Apparently, the only case in Iowa involving a claim of defamation under similar circumstances is *Marks v. Estate of Hartgerink*, 528 N.W.2d 539 (Iowa 1995). In that case, Marks was suspended from membership in his church and was later excommunicated by the church's governing body. Marks then sued the pastor and several elders in the church, claiming defamation and intentional infliction of emotional distress. The trial court granted the defendant's motion for summary judgment and the Iowa Supreme Court affirmed.

The court cited with approval the "general rule" identified in *Brown* and set forth above. The court concluded that it would "not interfere" with the church's action in excommunicating the plaintiff.

> "Trinity's decision to excommunicate Marks was purely ecclesiastical in nature, and therefore we will not interfere with the action. Interfering with the decision would contravene both our history of leaving such matters to ecclesiastical officials and the First and Fourteenth Amendments of the United States Constitution." *Id.* at 545.

The court does not directly address the issue of whether the general rule of noninterference applied to Marks' defamation claim. The court discusses the issues associated with defamation claims, including publication, truth or falsity, sufficiency of the evidence, and qualified privilege. The court states that "[w]e believe it is appropriate to apply a qualified privilege to statements made in the context of a church disciplinary proceeding." *Id.* at 546. The court then concluded, as a matter of law, that no actual malice existed, the statements were qualifiedly privileged, and the defendants were entitled to summary judgment. *Id.*

Turning to the facts in the instant action, the plaintiffs' claim is based on a statement made in a letter sent to members of the Shell Rock church and others in the community, charging that "they allowed the spirit of Satan to work in their midst." The court believes a jury could conclude that the letter equates plaintiff Jane Kliebenstein with "the spirit of Satan." The plaintiffs argue that their defamation claim can be resolved without a doctrinal examination of the precise meaning of the phrase, because under *any* definition, it is defamatory. The defendants argue, on the other hand, that submission of this case would necessarily plunge the jury into ecclesiastical or doctrinal waters.

In support of their motion for summary judgment, the defendants submit an affidavit of Marvin D. Arnpriester, who served as District Superintendent of the Waterloo district of the Iowa Annual Conference of the United Methodist Church from 1989 to 1995. According to the affidavit, no other church in the district (which was composed of approximately 70 churches) had as much internal strife as the church at Shell Rock. In his affidavit, Arnpriester opines that "it was obvious to me that the principal person involved in the internal conflict was Jane Kliebenstein."

The responsibilities of the staff parish relations committee are set forth in section 262.2 of the Book of Discipline of the United Methodist Church, a copy of which was attached to the affidavit of defendant Richard Kromminga. The duties of the committee include conferring and counseling with the pastor and staff "concerning conditions within the congregation as they affect relations between the pastor or staff and the people . . . " See, section 262.2(f)(1). The letter of March 22 was sent in conjunction with disciplinary action proposed against Jane Kliebenstein by the staff parish relations committee.

In support of their motions, the defendants also submit the affidavit of Rev. Dr. Elmer M. Colyer, a professor of historical theology at the University of Dubuque Theological Seminary in Dubuque, Iowa. In his affidavit, Colyer states that the phrase "spirit of Satan" and similar references "are not secular terms, but are words that find their genesis and meaning in religious communities and their traditions." According to Colyer, the term "Satan" does not have a fixed definition, but takes on various meanings and usage in various religious traditions. Colyer writes that the United Methodist Church does not have

"an official doctrinal statement" on the subject of Satan, and that various United Methodist theologians "hold extremely diverse views on the subject."

As noted by the court in *Farley*, 821 F.Supp. at 1290, there may be factual scenarios where a defamation action can be sustained against a religious organization. In their brief, the defendants seem to concede that if the plaintiff were defamed with a secular term, such as "thief," "liar," "homosexual," or the like, then the ecclesiastical abstention rule would not be invoked. In this case, however, the allegedly defamatory statement necessarily requires an examination of religious teachings and doctrinal issues. The First and Fourteenth Amendments of the United States Constitution and Article 1 Section 3 of the Iowa Constitution prohibit such intrusion by the secular courts. Accordingly, the court finds that the motions should be granted.

ORDER

IT IS THEREFORE ORDERED as follows:

1. The motion to dismiss or, in the alternative, motion for summary judgment filed by the defendants on September 10, 2001, is hereby **GRANTED** and **SUSTAINED**.

2. The petition at law filed on March 19, 2001, is hereby **DISMISSED**.

3. The court costs in this action shall be assessed against the plaintiffs, as determined by the Clerk of Court in the amount of $ 105.00.

Dated this 10th day of December, 2001.

/s/ Jon Stuart Scoles
Jon Stuart Scoles
Judge of the Second Judicial
District of Iowa

Clerk to provide copies
to counsel of record.

IOWA DISTRICT COURT FOR BUTLER COUNTY

AFFIDAVIT OF
REV. DR. ELMER M. COLYER

I am presently Professor of Historical Theology and Stanley Professor of Wesley Studies at the University of Dubuque Theological Seminary in Dubuque, Iowa. I received a Bachelor of Science degree in 1981 at the University of Wisconsin in Platteville, a Master of Divinity degree in 1985 at the University of Dubuque Theological Seminary, and a Ph.D. at Boston College with emphasis in Theology and Historical Theology & Church History. In addition to my various teaching responsibilities, I have also served as a pastor in several United Methodist churches. I am an ordained elder in the United Methodist Church.

The phrase "spirit of Satan" and other references such as "devil," "fallen angel," "Serpent," "demon," "demon-possessed," etc. are not secular terms, but are words that find their genesis and meaning in religious communities and their traditions. The idea of a power or force of evil/dysfunction is present in many religions, including Judaism and Christianity.

The Old and New Testaments of the Christian Bible, the final authority for faith and practice of most Christian denominations/churches, contain many references (several hundred) to Satan, the devil, demon, etc. Some of the most important include: Gen. 3:1-19; Lev. 17:7; Deut. 32:17; I Chron. 21:1; Job 1:6-12, 2:1-7; Psalms 106:37, 109:6; Isa. 27:1; Zech. 3:2; Matt. 4:24, 8:16, 8:31-33, 9:32-34, 11:18, 12:24-28, 16:23, 17:18; Mark 1:32, 4:15, 5:12-18, 6:13, 7:26-30, 9:38, 16:9, 16:17; Luke 4:33-35, 7:33, 8:2-38, 9:42, 10:18, 11:14;-20, 13:32, 22:3; John 7:20, 8:49, 10:20-21;

Acts 10:38, 13:10; 19:13; Rom. 8:38, 16:20; 1 Cor. 5:5, 10:20-21; 2 Cor. 11:3, 11:14, 12:7; Eph. 4:27, 6:11; 1 Thess. 2:18, 2 Thess. 2:9; 1 Tim 1:20, 3:6-7; 4:1; 2 Tim. 2:26; Heb. 2:14; James 2:19; 1 Peter 5:8; 1 John 3:8-10; Jude 9; Rev. 9:20, 12:9, 16:14, 18:2, 20:2, 20:7. Even from this brief sampling of significant biblical tests, it is clear that this terminology (devil, Satan, demon, etc.) is found throughout the Bible and in nearly every chapter of the Gospels.

In Acts 13:10, Paul, the Apostle, tells Elymas, "You are a child of the devil . . . " In John 8:44 Jesus remarks to the Jewish leaders, "You belong to your father, the devil . . . " Even more interesting is Matthew 16:23. In this passage, Peter (the great Apostle and early leader of the early Church) tells Jesus that Jesus will never suffer and be killed. Verse 23 reads: "Jesus turns and says to Peter, "Get behind me, Satan! You are a stumbling block to me; you do not have in mind the things of God, but the things of men." These are the purported words of the founder of Christian faith to his closest follower, the most prominent Apostle and early leader of the Christian movement.

Furthermore, the terms "devil," "Satan," "demon," etc., do not have fixed definitions, but take on various meanings and usage in religious discourse in various religious traditions. Within Christianity the understanding of these terms or concepts has undergone major revision in the course of history, and especially in the 19th and 20th centuries. Rudolf Bultmann, the famous and influential New Testament scholar of the early twentieth century, argued that the Bible (with its archaic ideas/language) has to be "demythologized." The modern world, with its modern science, knows that epilepsy, for example, is not caused by demon possession, as many pre-modern cultures with their various mythical views believed, and as even

some in the Church believed in pre-modern eras. So for Bultmann and many modern biblical scholars, theologians, and Church leaders, passages which refer to the devil, Satan, demon, etc. in particular have to be "demythologized" or reinterpreted if they are to be intelligible and meaningful for modern hearers. Forces of evil, demons, the Spirit of Satan are thus reinterpreted to mean, for example, destructive interpersonal dynamics within a community or spiritual/emotional/relational problems within an individual, rather than literal spiritual forces or a real personal devil.

The result of the process of change in Christian faith over the centuries is that the understanding of these terms (devil, Satan, demon, etc.) varies significantly between various different eras, different traditions, and different denominations/churches. This is even true within any given mainline denomination/church. In the United Methodist Church today there is great variance as to the [sic] both the acceptance and usage (some would not use the terms at all) of these terms (devil, demon, Satan, etc.) and also the understanding of both the meaning and existence of a "real" devil, Satan, demons, etc.

It is also important to note that in the official doctrinal standards of the United Methodist Church, the ARTICLES OF RELIGION and CONFESSION OF FAITH contained in the *Book of Discipline of the United Methodist Church 2000* (which presents the official teaching of the UM Church, as well as the law, polity, etc. by which the UM Church governs itself), there are no references to Satan or devil at all. John Wesley's (the founder of Methodism) *Standard Sermons* and *Notes on the New Testament* (also listed among the UM Church's official doctrinal standards) do refer to Satan and devil, but there is no

systematic and developed statement on Satan, the devil, demons, etc. in Wesley's *Sermons* and *Notes*. What this means is that it is doubtful that the United Methodist Church has an official doctrinal statement on the subject of the devil, Satan, demons, etc. because there is nothing clearly and definitively stated in the official doctrinal standards referenced in *The Book of Discipline of the United Methodist Church 2000*. In fact, United Methodist theologians (not to mention district superintendents, pastors and laity) today hold extremely diverse views on the subject of the devil, Satan, demons, etc.

In order for there to be an official United Methodist statement on the devil, Satan, demons, one of two events would have to take place: either 1.) GENERAL CONFERENCE, the representative body (it meets again in 2004) which speaks officially for Methodism, would have to add a statement to *The Book Of Discipline* consistent with the present standards of doctrine in accordance with "Article I" of the CONSTITUTIONAL "Restrictive Rules" (see para. 15. *Article IV* and para. 16 *Article I* of THE CONSTITUTION of the United Methodist Church in *The Book of Discipline of the United Methodist Church 2000*); or 2.) a BISHOP of the UM Church, while "presiding over an annual, central, or jurisdictional conference," could make an "episcopal decision" in response to a "written question of law" concerning what the United Methodist Church believes about the subject as found in *The Book of Discipline of the United Methodist Church 2000*. This "episcopal decision" would then be sent on to the JUDICIAL COUNCIL which would "affirm, modify, or reverse" the "episcopal decision." (See para. 49. *Article VII* of THE CONSTITUTION of the United Methodist Church in *The Book of Discipline of the United Methodist Church 2000*.)

It is my judgment as a United Methodist theologian and pastor is that this is also very unlikely and the process would be inconclusive. The United Methodist Church probably does not have (and probably will not have) an official understanding of devil, Satan, demons, etc. This means that these terms are subject to multiple and diverse interpretations, as is actually the case among United Methodist theologians, church officials, pastors and laity.

It is readily apparent that for a civil authority to determine within any specific ecclesiastical context whether the use of the term, "spirit of Satan," is defamatory, or to determine within the facts and circumstances of that specific ecclesiastical context whether the use of the term, "spirit of Satan," is legitimate and true or not, it is necessary to determine the meaning of the term for the religious community or body and the circumstances surrounding the use of this term. And this is especially true where the term is used in connection with an internal disciplinary proceeding dealing with a member of a United Methodist congregation. It is my opinion, as a United Methodist theologian, that before one could determine the meaning of the phrase, "spirit of Satan," one would have to engage in biblical interpretation (the Bible is the origin of the terminology in the Christian tradition and the United Methodist Church), theological and historical study (for the understanding of the devil, Satan, etc. undergo significant reinterpretation in the history of the Church, especially in the modern period), and research into, and interpretation of, the official *The Book of Discipline of the United Methodist Church 2000* (the official teaching, law and polity of the UM Church). The same kind of in-depth research would be required to determine the meaning and truth of the term, "spirit of Satan," when used by any other religious organi-

zation, tradition, denomination, or Church. No doubt, one would expect very different results and conclusions depending on the religious organization or body involved. The same term ("spirit of Satan, for example") could (and often would) have two very different meanings if it were used in a United Methodist disciplinary proceeding, than if the same term were used in a similar kind of disciplinary proceeding in a Southern Baptist congregation, for instance, and therefore the use of the term might be true in one instance and false in the other depending upon the particularities of each of the cases in question.

Since it is unlikely that the United Methodist Church has a "official" understanding of the phrase, one would inevitably derive multiple and diverse answers, simply because even the professional theologians of the United Methodist Church do not agree in their understandings of the devil, Satan, demons, etc. Within United Methodism, the phrase "spirit of Satan," could mean anything from a literal interpretation that someone is "possessed" by the devil to a figurative, "demythologized" understanding that there is a [sic] simply a destructive interpersonal dynamic operative in a particular religious community. And, of course, there is a wide range of other interpretations between the two. I can think of few more complex and disputed topics (involving biblical interpretation, the study of theology/history, and research into official Church doctrine, law, etc.) subject to multiple and diverse interpretations (not only in the United Methodist Church, but also in many other religious traditions and Christian denominations) than attempting to ascertain the meaning of such terms as devil, Satan, demons, spirit of Satan, etc. Nevertheless all of this will be involved, if a secular authority seeks to determine whether the use of the

phrase, "spirit of Satan," is defamatory, or under the circumstances of its use is legitimate and true, especially when the phrase is used by a church official in connection with a ecclesiastical disciplinary proceeding.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge.

Dated: August 15, 2001 /s/ Elmer M. Colyer
Elmer M. Colyer

[LOGO]

THE UNITED METHODIST CHURCH

WATERLOO DISTRICT

Office
814 Randolph St.
Waterloo, Iowa
50702
319-234-0077
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Dr. Jerrold W. Swinton
District Superintendent

Janet Tyrrell
Administrative Secretary

Parsonage
171 Lovejoy Ave.
Waterloo, Iowa
50701
319-232-3830

Shell Rock United Methodist Church
204 S. Prairie
Shell Rock, IA 50670

Dear Brothers and Sisters in Christ,

A few months ago I attended worship in Shell Rock and I rejoiced to see so many young families in church. I was in despair when Jane Kliebenstein made an effort to whisper scornfully to me that this pastor must leave Shell Rock. There is such a promising future in those young families. If they are not carefully nurtured and loved, they will not likely remain, leaving the future of your congregation bleak indeed.

Pastor Julie has been under attack and undermined from the moment she set foot in Shell Rock. Julie says that she may have to leave the Shell Rock Church for health reasons. The Staff Parish Committee is trying to save her ministry by offering her a renewal leave. I honestly don't know how she has continued this long to do such an effective outreach. There are few pastors, in my experiences, who do a better job of reaching and nurturing young couples and engaging them in mission and outreach than Julie.

Pastor Julie no doubt has made mistakes some of which were the result of her being under almost constant siege. No way has she deserved the constant belittling and rumor campaign. Pastors in Shell Rock in the past were often attacked. Everything is in place for the attack and undermining of a new pastor as soon as they set foot in Shell Rock. This church is already known as a "clergy graveyard." Pogo once said, "We have seen the enemy and it is us!" In my experiences, blamers do not generally shoulder responsibility unless it serves their purpose. Blamers rather reserve the right to be in perpetual self-justifying judgement.

Folks, when is enough, enough? When will you stop the blaming, negative and unhappy persons among you from tearing down the spirit of Jesus Christ among you? Jesus faced this problem and tells the church to take action Matthew 18:15-17. You know whether a person has the spirit of Jesus or Satan by their fruits – see Matthew 7:15-20. I am distressed and perplexed why people have tolerance and compassion for anyone who habitually tears down the Body of Christ by habitually sowing discord and pain.

And then the same people show little compassion and support for the people who are the targets, and who eventually leave the church wounded and bewildered – taking the Shell Rock's future with them.

Friends, the fault in Shell Rock is not your pastors; it is your district superintendent, it is not the Conference. All of the aforementioned have supported you. Because of your unresolved issues, had you been in a denomination with a call system, you would have had difficulty obtaining a quality pastor within a year, if at all.

When the congregation of Shell Rock is ready to acknowledge they allowed the spirit of Satan to work in their midst, express some contrition and seek help – then help will come which can be followed with healing – see 1 John 3:4-10. Interim pastors and special resource persons are available. Then Shell Rock can recover the joyful energy of being the Body of Jesus Christ that builds each other up and will not allow anyone to be belittled, be the victim of vicious rumors or the like.

The Staff Parish Committee and I have called a Church Conference for Thursday, April 22 at 7:30. The Rev. Len Eberhart, the D.S. from the Dubuque District and myself will be present. First, I will ask you if you will be ready to set a policy of disciplinary action for any member who 1) undermines decisions of administrative committees of the Shell Rock Church 2) spreads rumors and circulates half-truths about the pastor or any members of the church. Offending persons can be reprimanded, stripped of offices, or asked to leave the Shell Rock United Methodist Church (¶236 *1996 Discipline*). The Shell Rock Staff Parish Committee will then propose that Jane Kliebenstein be stripped of church offices, it is understood that if she continues to cause dissension, she will next be asked to leave the Shell Rock UMC.

Secondly, the Church Conference needs to discuss how we can be proactive to resolve conflict, bring healing and find a missional goal for the new Millennium. If the congregation is not ready to take the problem in hand, then the Iowa Conference and I will be very reluctant to see a resident pastor appointed to Shell Rock.

Hopefully, the many loving members of this congregation, will step forward to restore a loving spirit of Jesus to this Body of Christ.

Sincerely,

/s/ JW Swinton
Rev. Jerrold W. Swinton
District Superintendent

/s/ Richard Kromminga
/s/ Karen Wahl
Shell Rock Staff Parish Committee
Rick Kromminga, Chairperson
Karen Wahl

/s/ Kay J. Lahr
/s/ Karen L. Peterson
Kay J. Lahr
Karen L. Peterson

IOWA DISTRICT COURT FOR BUTLER COUNTY

JANE KLIEBENSTEIN and GLEN KLIEBENSTEIN,	)	
Plaintiff,	)	No. LACV018800
vs.	)	
IOWA CONFERENCE OF THE UNITED METHODIST CHURCH; THE UNITED METHODIST CHURCH OF SHELL ROCK, IOWA; JERROLD W. SWINTON; RICK KROMMINGA; KAREN WAHL; KAY J. LAHR and KAREN L. PETERSON,	)	
Defendants.	)	

[Served June 20, 2001]

[Answered by: Jane Kliebenstein and Glen Kliebenstein, Plaintiffs]

INTERROGATORY NO. 2: With respect to your claim of defamation, state the following:

a. The date, place, and recipient or recipients of the alleged defamatory statement or statements;

b. Whether such statement or statements were oral or written;

c. If the statement or statements were oral, then set forth what was said and what you understand the bases were for making of such statements; and

d. If the statement statements were written, then attach a copy of said written statement or statements.

ANSWER:

(a) The defamatory statements are contained in a March 22, 1999 letter sent through the Shell Rock, Iowa Post Office with the letterhead from the United Methodist Church, Waterloo District. It is the Plaintiffs' belief and understanding that many of the members of United Methodist Church of Shell Rock, Iowa received the letter, as well as certain non-members of said Church, including the following individuals from Shell Rock, Iowa:

Tom, Lisa and Linsey Moffit
Roger Rassmussen
Shirley Stevenson
Shilotte Epley
Bill Hardee
Randy and Theone Kramer
Theresa Kratchman
Walter (Bud) Pruin
Hank Willson
Hazel Ballard (deceased)

A mailing list which was likely used in sending out the March 22, 1999 letter is produced in Plaintiffs' Response to Defendants' Request for Production of Documents.

(b) Written

(c) N/A

(d) Produced with Plaintiffs' Response to Defendants' Request for Production of Documents.

* * *

IOWA DISTRICT COURT FOR BUTLER COUNTY

JANE KLIEBENSTEIN and GLEN KLIEBENSTEIN, Plaintiff,	)	No. LACV018800
vs.	)	
IOWA CONFERENCE OF THE UNITED METHODIST CHURCH; THE UNITED METHODIST CHURCH OF SHELL ROCK, IOWA; JERROLD W. SWINTON; RICK KROMMINGA; KAREN WAHL; KAY J. LAHR and KAREN L. PETERSON, Defendants.	)	

[Served on August 3, 2001]

[Answered by: Jerrold Swinton, Defendant]

INTERROGATORY NO. 2: With respect to the March 22, 1999 letter, a copy of which is attached hereto and marked as Exhibit "A," please identify.

(a) The author or authors of said letter;

(b) The names and addresses of individuals who have consulted in providing information used in writing said letter, including the information provided by each such individual;

(c) The names and addresses of each and every person to whom the letter was sent, identifying which individuals were members and which individuals were not members of Shell

Rock United Methodist Church at the time said letter was sent;

(d) The number of drafts prepared with respect to said letter, stating the location of all earlier drafts of said letter, and setting forth any and all changes made from the earlier drafts to this letter.

ANSWER:

(a) I was the author of the letter;

(b) I did not consult with anyone with respect to the wording of the letter;

(c) I do not know. The letters were mailed out by the Shell Rock United Methodist Church with the understanding they would go to church members only;

(d) I prepared the letter on a computer and I know of no drafts. If mistakes were made in its preparation, they would have been corrected on the computer.

* * *